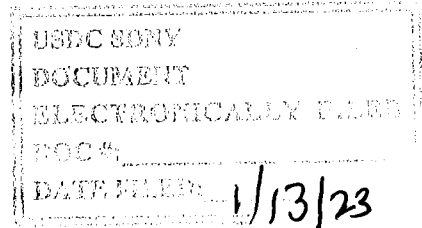


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK-----X
YONG BIAO JI,

Plaintiff,

v.

AILY FOOT RELAX STATION, INC. d/b/a
Foot Relax Spa Station; LINDA FOOT
RELAX SPA STATION, INC. d/b/a Foot
Relax Spa Station; XIANG MAN ZHANG
a/k/a AILING ZHANG; and KE XUE
ZHENG,Defendants.
-----X**ORDER**

19 CV 11881 (VB)

On January 12, 2023, defense counsel filed a letter seeking disqualification of both plaintiff's counsel and himself from the case, as well as seeking to adjourn the final pretrial conference scheduled for January 18, 2023, at 10:00 a.m., and jury selection and trial scheduled to commence on January 23, 2022, at 9:30 a.m. (Doc. #180).

I. Motion to Disqualify Plaintiff's Counsel

In support of his application to disqualify plaintiff's counsel, defense counsel largely reiterates arguments he has asserted in prior motions, all of which have been denied. (See, e.g., Docs. ##163, 164, 174, 176–179). **Defendants' motion to disqualify plaintiff's counsel is therefore DENIED for the reasons set forth in the Court's prior Orders. (Docs. ##164, 177, 179).**

II. Motion to Withdraw as Defense Counsel

In support of his application to disqualify himself from representing defendants in this action, defense counsel submits an affidavit from his client defendant Xiangman Zhang sworn to under penalty of perjury. (Doc. #180-1). In the affidavit, Ms. Zhang states that she "distrust[s] Mr. Ning Ye, to be my counsel, for this case," and argues defense counsel "must be disqualified" from representing defendants. (*Id.* at ECF 1, 3).

Accordingly, the Court construes defense counsel's motion as a motion to withdraw. Here, based on Ms. Zhang's affidavit, there appears to be a breakdown in the professional relationship such that defense counsel's representation of his clients has been rendered "unreasonably difficult for the lawyer to carry out . . . effectively," and defense counsel's clients have also "knowingly and freely assent[ed] to termination of the employment." N.Y. Rule Pro. Resp. 1.16(c)(7), (10). **Accordingly, the Court GRANTS defense counsel's motion to withdraw.**

Defendants Aily Foot Relax Station, Inc., and Linda Foot Relax Station, Inc., are corporations that may not appear in federal court without counsel. See *Lattanzio v. COMTA*, 481 F.3d 137, 139–40 (2d Cir. 2007) (per curiam). Furthermore, a non-attorney cannot appear in

court on behalf of a company. See id. As a result, defendants Aily Foot Relax Station, Inc., and Linda Foot Relax Station, Inc., must engage an attorney, and such attorney must appear at the final pretrial conference scheduled for January 18, 2023, at 10:00 a.m. If new counsel does not appear at the final pretrial conference, the Court will permit plaintiff to seek default judgments against defendants Aily Foot Relax Station, Inc., and Linda Foot Relax Station, Inc.

In addition, defendants Xiang Man Zhang and Ke Xue Zheng are strongly encouraged, but not required, to retain a new attorney, or must represent themselves in the case going forward, including by attending the final pretrial conference scheduled for January 18, 2023, at 10:00 a.m., in person, and by attending jury selection and trial beginning on January 23, 2023, at 9:30 a.m., in person.

III. Motion to Adjourn the Final Pretrial Conference and Jury Selection and Trial

The Court DENIES defense counsel's motion to adjourn the final pretrial conference and jury selection and trial.

Contrary to defense counsel's statement in his letter that these dates were scheduled "without first checking the schedules of counsels," the final pretrial conference and the start date for jury selection and trial were scheduled during a conference on July 11, 2022, which counsel for both parties attended and consented to these dates. The next day, on July 12, 2022, the Court issued an Order setting forth these dates in writing. (Doc. #134). It is inexcusable for defense counsel to have scheduled a conflicting proceeding in another Court on these dates in November 2022, four months later. Moreover, in none of the four motions defense counsel has filed since November 2022 has he raised this potential scheduling conflict.

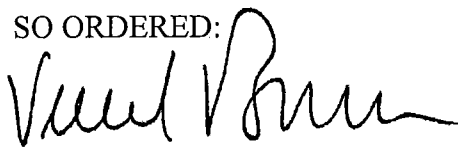
In addition, because the Court grants defense counsel's motion to withdraw from representing defendants in this case, any scheduling conflicts are no longer relevant.

The final pretrial conference will proceed as scheduled on January 18, 2023, at 10:00 a.m., and jury selection and trial will begin on January 23, 2023, at 9:30 a.m. Failure of defendants Aily Foot Relax Station, Inc., and Linda Foot Relax Station, Inc., to appear through an attorney may result in a default judgment being entered against them. Moreover, the failure of defendants Xiang Man Zhang and Ke Xue Zheng to appear, either pro se or through an attorney, may result in a default judgment being entered against them.

Mr. Ye is directed to serve this Order, by email or otherwise, on his clients **by the close of business on January 13, 2023**, and file a letter on the docket certifying that he has done so.

Dated: January 13, 2023
White Plains, NY

SO ORDERED:



Vincent L. Briccetti
United States District Judge